

AMENDED IN SENATE APRIL 18, 2006

**SENATE BILL**

**No. 1724**

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**Introduced by Senator Runner**

February 24, 2006

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An act to add Section 89546.5 to the Education Code, to amend Sections 905.6 and 13332.09 of the Government Code, and to amend Section 10295.1 of, and to add Section 10708.5 to, the Public Contract Code, relating to the California State University.

LEGISLATIVE COUNSEL'S DIGEST

SB 1724, as amended, Runner. California State University.

*(1) Existing law establishes the California State University under the administration of the Trustees of the California State University. Existing law authorizes the trustees to hire officers and employees to carry out the functions of the university. Pursuant to a provision of the California Constitution, the officers and employees of the California State University are exempt from civil service.*

*The State Civil Service Act, among other things, enacts provisions relating to the procedure to be followed when a civil service employee is overpaid.*

*This bill would enact provisions relating to recovery procedures for overpayments that are applicable to employees of the California State University, and that are substantially similar to the comparable provisions in the State Civil Service Act that are related to state civil service employees.*

~~(1)~~

*(2) Existing law, the Tort Claims Act, sets forth, among other things, the procedures for filing a claim against a statewide public entity. The act specifies that a claim against the state is to be filed with*

the California Victim Compensation and Government Claims Board, unless the claim is against a judicial branch entity or judge of one of those entities, in which case the claim is filed with the Judicial Council. A provision of the act exempts claims against the Regents of the University of California from these procedures.

This bill would also exempt claims against the Trustees of the California State University from these procedures.

(2)

(3) Existing law requires contracts for the acquisition of motor vehicles or general mobile equipment by a state agency, as defined, to be made by or under the supervision of the Department of General Services. Existing law defines “state agency,” for the purposes of this provision, to include each campus of the California State University.

This bill would remove the campuses of the California State University from the scope of this provision.

(3)

(4) Existing law prohibits, except under specified circumstances, a state department or agency, as defined, from contracting with a vendor, contractor, or an affiliate of a vendor or contractor, unless that vendor or contractor, and all of its affiliates that make sales for deliveries into California, are holders of a California seller’s permit issued as prescribed. Existing law defines “state department or agency,” for these purposes, to include every state office, department, division, bureau, board, commission, and the California State University, and to exclude the University of California, the Legislature, the courts, and any agency in the judicial branch of government.

This bill would also exclude the California State University from this prohibition.

(4)

(5) Existing law, the California State University Contract Law, provides, among other things, that when, in the opinion of the Trustees of the California State University, the best interests of the university so dictate, the trustees may enter into an agreement with a contractor to provide all or significant portions of the design services and construction services relating to the erection, construction, alteration, painting, repair, or improvement of a state structure, building, road, or other state improvement of any kind.

The bill would, notwithstanding a provision of existing law that requires the Department of General Services to approve, with respect

to access compliance, plans and specifications for state buildings that are intended for use by the public and constructed with state funds, authorize the trustees to perform this function for California State University buildings and facilities that are intended for use by the public and constructed with state funds.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 89546.5 is added to the Education Code,  
2     to read:  
3     89546.5. (a) (1) When the trustees determine that an  
4     overpayment has been made to an employee, they shall notify the  
5     employee of the overpayment and afford the employee an  
6     opportunity to respond prior to commencing recoupment actions.  
7     Thereafter, reimbursement shall be made to the trustees through  
8     one of the following methods mutually agreed to by the employee  
9     and the trustees:  
10    (A) Cash payment or payments.  
11    (B) Installments, through payroll deductions, to cover at least  
12    the same number of pay periods in which the error occurred.  
13    When overpayments have continued for more than one year, full  
14    payment may be required by the trustees through payroll  
15    deductions over the period of one year.  
16    (C) The adjustment of appropriate leave credits or  
17    compensating time off, provided that the overpayment involves  
18    the accrual or crediting of leave credits (for example, vacation,  
19    annual leave, or holiday) or compensating time off. Any errors in  
20    sick leave balances may only be adjusted with sick leave credits.  
21    (2) Absent mutual agreement on a method of reimbursement,  
22    the trustees shall proceed with recoupment in the manner set  
23    forth in subparagraph (B) of paragraph (1).  
24    (b) An employee who is separated from employment prior to  
25    full repayment of the amount owed shall have withheld from any  
26    money owing the employee upon separation an amount sufficient  
27    to provide full repayment. If the amount of money owing upon  
28    separation is insufficient to provide full reimbursement to the  
29    trustees, the trustees shall have the right to exercise any and all  
30    other legal means to recover the additional amount owed.

1 (c) Amounts deducted from the payment of salary or wages  
2 pursuant to this section, except as provided in subdivision (b),  
3 shall in no event exceed 25 percent of the employee's net  
4 disposable earnings.

5 (d) No administrative action shall be taken by the trustees  
6 pursuant to this section to recover an overpayment unless the  
7 action is initiated within three years from the date of  
8 overpayment.

9 (e) If the provisions of this section are in conflict with the  
10 provisions of a memorandum of understanding reached pursuant  
11 to Chapter 12 (commencing with Section 3560) of Division 4 of  
12 Title 1 of the Government Code, the memorandum of  
13 understanding shall be controlling without further legislative  
14 action, except that, if the provisions of a memorandum of  
15 understanding require the expenditure of funds, the provisions  
16 shall not become effective unless approved by the Legislature in  
17 the annual Budget Act.

18 ~~SECTION 1.~~

19 SEC. 2. Section 905.6 of the Government Code is amended to  
20 read:

21 905.6. This part does not apply to claims against the Regents  
22 of the University of California or the Trustees of the California  
23 State University.

24 ~~SEC. 2.~~

25 SEC. 3. Section 13332.09 of the Government Code is  
26 amended to read:

27 13332.09. (a) No purchase order or other form of  
28 documentation for acquisition or replacement of motor vehicles  
29 shall be issued against any appropriation until the Department of  
30 General Services has investigated and established the necessity  
31 therefor.

32 (b) A state agency may not acquire surplus mobile equipment  
33 from any source for program support until the Department of  
34 General Services has investigated and established the necessity  
35 therefor.

36 (c) Notwithstanding any other provision of law, all contracts  
37 for the acquisition of motor vehicles or general use mobile  
38 equipment for a state agency shall be made by or under the  
39 supervision of the Department of General Services. Pursuant to  
40 Section 10298 of the Public Contract Code, the Department of

1 General Services may collect a fee to offset the cost of the  
2 services provided.

3 (d) All passenger-type motor vehicles purchased for state  
4 officers and employees, except constitutional officers, shall be  
5 American-made vehicles of the light class, as defined by the  
6 State Board of Control, unless excepted by the Director of  
7 General Services on the basis of unusual requirements, including,  
8 but not *necessarily* limited to, use by the California Highway  
9 Patrol, that would justify the need for a motor vehicle of a  
10 heavier class.

11 (e) No general use mobile equipment having an original  
12 purchase price of twenty-five thousand dollars (\$25,000) or more  
13 shall be rented or leased from a nonstate source and payment  
14 therefor made from any appropriation for the use of the  
15 Department of Transportation, without the prior approval of the  
16 Department of General Services after a determination that  
17 comparable state-owned equipment is not available, unless  
18 obtaining approval would endanger life or property, in which  
19 case the transaction and the justification for not having sought  
20 prior approval shall be reported immediately thereafter to the  
21 Department of General Services.

22 (f) As used in this section:

23 (1) "General use mobile equipment" means equipment that is  
24 listed in the Mobile Equipment Inventory of the State Equipment  
25 Council and which is capable of being used by more than one  
26 state agency, and shall not be deemed to refer to equipment  
27 having a practical use limited to the controlling state agency  
28 only. Section 575 of the Vehicle Code shall have no application  
29 to this section.

30 (2) "State agency" means a state agency, as defined pursuant  
31 to Section 11000. The University of California is requested and  
32 encouraged to have the Department of General Services perform  
33 the tasks identified in this section with respect to the acquisition  
34 or replacement of motor vehicles by the University of California.

35 ~~SEC. 3.~~

36 *SEC. 4.* Section 10295.1 of the Public Contract Code is  
37 amended to read:

38 10295.1. (a) A state department or agency shall not contract  
39 for the purchase of tangible personal property from a vendor,  
40 contractor, or an affiliate of a vendor or contractor, unless that

1 vendor, contractor, and all of its affiliates that make sales for  
2 delivery into California are holders of a California seller's permit  
3 issued pursuant to Article 2 (commencing with Section 6066) of  
4 Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation  
5 Code, or are holders of a certificate of registration issued  
6 pursuant to Section 6226 of the Revenue and Taxation Code. A  
7 vendor or contractor that sells tangible personal property to a  
8 state department or agency, and each affiliate of that vendor or  
9 contractor that makes sales for delivery into California, shall be  
10 regarded as a "retailer engaged in business in this ~~state~~" state,"  
11 and shall be required to collect the California sales or use tax on  
12 all its sales into the state in accordance with Part 1 (commencing  
13 with Section 6001) of Division 2 of the Revenue and Taxation  
14 Code.

15 (b) Beginning on and after January 1, 2004, each vendor,  
16 contractor, or affiliate of a vendor or contractor that is offered a  
17 contract to do business with a state department or state agency  
18 shall submit to that state department or agency a copy, as  
19 applicable, of that retailer's seller's permit or certificate of  
20 registration, and a copy of each of the retailer's applicable  
21 affiliate's seller's permit or certificate of registration, as  
22 described in subdivision (a). This subdivision does not apply to a  
23 credit card purchase of goods of two thousand five hundred  
24 dollars (\$2,500) or less. The total amount of exemption  
25 authorized herein shall not exceed seven thousand five hundred  
26 dollars (\$7,500) per year for each company from which a state  
27 agency is purchasing goods by credit card. It shall be the  
28 responsibility of each state agency to monitor the use of this  
29 exemption and adhere to these restrictions on these purchases.

30 (c) A state department or state agency is exempted from the  
31 provisions of subdivision (a) if the executive director, ~~or his or~~  
32 ~~her designee, of that state department or agency~~ of that state  
33 department or agency, or his or her designee, makes a written  
34 finding that the contract is necessary to meet a compelling state  
35 interest.

36 (d) For the purposes of this section:

37 (1) "Affiliate of the vendor or contractor" means any person or  
38 entity that is controlled by, or is under common control of, a  
39 vendor or contractor through stock ownership or any other  
40 affiliation.

(2) “Compelling state interest” includes, but is not *necessarily* limited to, the following:

(A) Ensuring the provision of essential services.

(B) Ensuring the public health, safety, and welfare.

(C) Responding to an emergency, as defined in Section 1102.

(3) “State department or agency” means every state office, department, division, bureau, board, and commission, but does not include the University of California, the California State University, the Legislature, the courts, and any agency in the judicial branch of government.

~~SEC. 4.~~

SEC. 5. Section 10708.5 is added to the Public Contract Code, to read:

10708.5. Notwithstanding Section 4454 of the Government Code, the trustees shall review, for compliance with the California Building Standards Code and, specifically, for compliance with the access compliance provisions, as adopted by the California Building Standards Commission for application to state agencies, plans and specifications for all California State University buildings and facilities that are intended for use by the public and that are constructed, in whole or in part, with state funds. No contract shall be awarded until the trustees issue written approval stating that the plans and specifications comply with the intent of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code.